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June 7, 2021

BY ECF

Honorable Katharine H. Parker
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl St.
New York, New York 10007

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Re: *Wentworth Rattray v. Police Officer Cadavid, et al.*, 17-CV-8560 (PGG)
(KHP)

Your Honor:

I am the Senior Counsel in the Office of Georgia M. Pestana, Acting Corporation Counsel of the City of New York (“City”), assigned to represent defendants Police Officer Jose Cadavid and Police Officer Alyssa Trigueno in this action. Defendants write to respectfully request that the Court grant a one-week extension of time for the defendants to provide information concerning the production or destruction of recordings of plaintiff’s 911 telephone calls from June 9, 2021, until June 16, 2021. This is the second request for extension of this deadline.

By way of background, this Court ordered that the defendants produce to plaintiff an audio recording of plaintiff’s 911 phone call and/or records of destruction of that recording, along with office policies governing the destruction of such records, by June 2, 2021. (ECF No. 130). On May 28, 2021, defendants requested a one-week extension to provide a status report with respect to the existence of the 911 audio of plaintiff’s phone call with the status report being due on June 9, 2021. (ECF No. 135). On May 29, 2021, the Court granted the extension. (ECF No. 138).

Defendants believe that the audio recording has been destroyed and are working on obtaining the records and/or declarations needed to respond to the Court’s order. However, on June 6, 2021, New York City Law Department experienced an unauthorized intrusion into their computer network causing network-wide technical difficulties. As a result, we have been unable to access electronic communications, documents and files since Sunday. As of this writing it is unclear when these issues will be resolved. Therefore, the additional time is required to respond to the Court’s order.

Defendants’ counsel spoke with plaintiff today regarding this request and he asked that the following language be included in this letter as his response:

“Plaintiff is requesting the audio recording of the 911 calls correlating to the incident transcript of these calls is included in the complaints exhibits as appendix – 1 – item – B – event chronology - - D16110518835 and covers the statements made to the 911 dispatchers by both parents (P1 and P2) during the period 6 PM eastern time until 9 PM eastern time on November 5, 2016. The City of New York has previously failed to provide these records to plaintiff. Appendix – 1 – item – I and item – J. As such plaintiff asks that the court compel the City of New York to provide the records to plaintiff by the requested date. As such, plaintiff consents to the request extension by the defendants.”

Defendants do not consent to plaintiff’s motion to compel. It is counsel’s understanding that these records do not exist, and the additional time requested by defendants is for the purpose of obtaining the necessary documents to confirm the nonexistence of these records as well as the policy behind their retention.

Therefore, for the reasons set forth above, defendants respectfully request that the Court grant a one-week extension to provide the status report concerning plaintiff’s 911 audio until June 16, 2021.

We thank the Court for its consideration of this matter.

Respectfully submitted,

Alan H. Scheiner/s/

Alan H. Scheiner
Senior Counsel

cc: **By First Class Mail**

Wentworth Rattray, *Plaintiff Pro Se*
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The Court hereby grants a one-week extension to provide the status report concerning Plaintiff’s 911 audio until June 16, 2021. Regarding the motion to compel records, the Court will discuss this with the parties at the case management conference scheduled for Thursday, July, 1, 2021 at 3:15 pm.

SO ORDERED:

Katharine H. Parker
HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE

6/8/2021